below the average price for that year? If so, should we specify the particular circumstances that would trigger such disclosure, such as a 10%, 20%, or 30% differential between the average price and the year-end price? If so, what circumstances should we specify? No – if average historical prices are used and companies are allowed to provide supplemental pricing systems in order to explain or describe unique circumstances, then no further disclosure is necessary, or warranted as it would give too much credence to an abnormal, one day price.

Request for Comment

- Should the price used to determine the economic producibility of oil and gas reserves be based on a time period other than the fiscal year, as some commenters have suggested? If so, how would such pricing be useful? Would the use of a pricing period other than the fiscal year be misleading to investors? The 12 month period is the most appropriate time period for reasons cited above. Any longer period could incorporate market issues no longer relevant.
- Is a lag time between the close of the pricing period and the end of the company's fiscal year necessary? If so, should the pricing period close one month, two months, three months, or more before the end of the fiscal year? Explain why a particular lag time is preferable or necessary. Do accelerated filing deadlines for the periodic reports of larger companies justify using a pricing period ending before the fiscal year end? A 1 month lag period might be helpful in order to timely prepare financial statements since companies do not receive price information from first purchasers until the end of the month following production, which could create a conflict with recently adopted requirements for accelerated filings.

Request for Comment

- Should we require companies to use the same prices for accounting purposes as for disclosure outside of the financial statements? Most emphatically yes. Our goal should be to make financial statements as clear as possible, and use of different pricing systems only creates confusion.
- Is there a basis to continue to treat companies using the full cost accounting method differently from companies using the successful efforts accounting method? For example, should we require, or allow, a company using the successful efforts accounting method to use an average price but require companies using the full cost accounting method to use a single-day, year-end price? No, all companies should use the same pricing system in order to aid comparability. Also, the two issues are not strictly linked to each other.
- Should we require companies using the full cost accounting method to use a single-day, year-end price to calculate the limitation on capitalized costs under that accounting method, as proposed? If such a company were to use an average price and prices are higher than the average at year end or at the time the company issues its financial statements, should that company be required to record an impairment charge? No, use of a single day price is never appropriate due to influence of short term factors not related to fundamental value. For same reason, impairments based on single day pricing incorporate short term factors and do not reasonably reflect actual value impairment, particularly in the current environment of high daily volatility in market clearing prices of commodities (see oil trading price of July7, 2008 as example).
- Should the disclosures required by SFAS 69 be prepared based on different prices than the disclosures required by proposed Section 1200? There should be a single pricing system for all disclosures.

- If proved reserves, for purposes of disclosure outside of the financial statements, other than supplemental information provided pursuant to SFAS 69, are defined differently from reserves for purposes of determining depreciation, should we require disclosure of that fact, including quantification of the difference, if the effect on depreciation is material? ?
- What concerns would be raised by rules that require the use of different prices for accounting and disclosure purposes? For example, is it consistent to use an average price to estimate the amount of reserves, but then apply a single-day price to calculate the ceiling test under the full cost accounting method? Would companies have sufficient time to prepare separate reserves estimates for purposes of reserves disclosure on one hand, and calculation of depreciation on the other? Would such a requirement impose an unnecessary burden on companies? Different pricing breeds confusion, dual accounting and tremendous increased burden on filers.
- Will our proposed change to the definitions of proved reserves and proved developed reserves for accounting purposes have an impact on current depreciation amounts or net income and to what degree?
- If we change the definitions of proved reserves and proved developed reserves to use average pricing for accounting purposes, what would be the impact of that change on current depreciation amounts and on the ceiling test? Would the differences be significant?

Request for Comment

- Is our proposed definition of "reliable technology" appropriate? Should we change any of its proposed criteria, such as widespread acceptance, consistency, or 90% reliability? The latter criteria of 90% reliability may be difficult to define, whereas the first two are easier to obtain.
- Is the open-ended type of definition of "reliable technology" that we propose appropriate? Would permitting the company to determine which technologies to use to determine their reserves estimates be subject to abuse? Do investors have the capacity to distinguish whether a particular technology is reasonable for use in a particular situation? What are the risks associated with adoption of such a definition? The definition of "reliable technology" is likely to be defined by industry consensus with independent engineering firms leading the way. Mainstream engineering firms will be loathe to venture far from consensus due to reputation, and companies are unlikely to be willing to venture far from such consensus for similar reason.
- Is the proposed disclosure of the technology used to establish the appropriate level of certainty for material properties in a company's first filing with the Commission and for material additions to reserves estimates in subsequent filings appropriate? Should we require disclosure of the technology used for all properties? Should we require companies currently filing reports with the Commission to disclose the technology used to establish appropriate levels of certainty regarding their currently disclosed reserves estimates? As long as disclosure is of the general method applied and disclosure does not turn into scripture by SEC of what technologies must be used, then such disclosure is appropriate. For example, there are news stories about how new disclosure rules on NEO compensation appear to have resulted in Detailed description of technology may lead to forced damaging disclosure of proprietary and confidential information.

Request for Comment

- Is the proposed definition of "reasonable certainty" as "much more likely to be achieved than not" a clear standard? Is the standard in the proposed definition appropriate?

Request for Comment

- Should we require a company to file reports from third party reserves preparers and reserves auditors containing the proposed disclosure when the company represents that a third party prepared its reserves estimates or conducted a reserves audit? As an alternative, should we not require that the third party's report be filed, but that the company must provide a description of the third party's report? If so, should we specify that company's description of the third party's report should contain the information that we propose to require in the third party's report? A summary of the third party report is sufficient – if there is any question raised, then SEC can always request to see report. Reports are sensitive documents containing detailed confidential information.

• Should we specify the disclosures that need to be included in third party reports? If so, is the disclosure that we have proposed for the reserves estimate preparer's and reserves auditor's reports appropriate? Should these reports contain more or less information? If they should include more information, what other information should they include? If less, what proposed information is not necessary?

• In an audit, should we specify the minimum percentage of reserves that should be examined and determined to be reasonable? If so, what should that percentage be? Should it be 50%, 75%, 90% or some other percentage? If so, why? 80% threshold works best – historically, this would capture the bulk of the value without requiring the exhaustive disclosure associated for the bulk of the properties.

• If the company engages multiple third parties to conduct reserves audits on different portions of its reserves, should the definition of reserves audit be conditioned on each third party evaluating at least 80% of the reserves covered by its reserves audit, as proposed? Yes. Is the scope of a reserves audit defined by geographic areas? If so, should the definition of a reserves audit be based on the third party's evaluation of 80% of the reserves located in the geographic areas covered by the reserves audit? Would disclosure that a company has hired a third party to audit only a portion of its reserves be confusing to investors? Is there a danger that investors will not be able to ascertain the extent of the reserves audit? Should we require that a company could not disclose that it has conducted a reserves audit unless 80% of all of its reserves have been evaluated by a third party or, if the company hires multiple third parties, by all of the third parties collectively?

• Is the proposed definition of "reserves audit" appropriate? Should we

revise this proposed definition in any way?

Request for Comment

• Should we adopt the proposed table? Alternatively, should we simply require companies to reclassify their PUDs after five years? Companies tend to drill the best PUDs and those PUDs required to hold leases first. This selection changes annually as new PUDs are developed. The fact that a current PUD has not been drilled in 5 years does not mean that it is not a valid PUD, just that it is not as good as those other PUDs competing for capital. This can change quickly due to more capital becoming available, more staff available to work the PUD, or less attractive PUDs are developed. Thus, a 5 year limitation does not make sense.